

**REMARKS**

Reconsideration of the Office action mailed on February 12, 2004 in connection with the above-identified patent application is requested in view of the foregoing amendments and the following remarks.

**Special Circumstances**

The Examiner asked applicant to point out any material information from the co-pending applications listed as parents to the instant application if the criteria for materiality applies and if the examination record provides reason for applicant to believe that the Examiner has not considered such information. Applicant is uncertain what the Examiner is requesting. Applicant has previously identified its applications and believes that identification satisfies its duty of disclosure. Nevertheless, in an attempt to respond to the request, applicant has attached to the end of this document as "Attachment 1" a list of its patent applications and its one Taiwanese patent (the list does not include the national phase filings of the listed PCT application). None of the listed applications have yet issued as patents. The Examiner is requested to inform applicant if further information concerning any of these applications is needed.

**Double Patenting**

The Examiner stated: "It should be noted that for the purpose of this office action the below rejections under 35 U.S.C. 101 (double patenting) are being made under the assumption that the applications were not commonly owned at the time of applicant's invention." (Office Action, 2.) Applicant is uncertain what the Examiner means by this statement. The double patenting rejections set forth in the Office Action were made under the judicially created doctrine of obviousness-type double patenting, not under

35 U.S.C. 101, so applicant does not understand why reference was made to that statute. Additionally, as far as applicant is aware, obviousness-type double patenting rejections are made between commonly owned applications so applicant does not understand why the assumption was made that the applications were not commonly owned. The Examiner is requested to inform applicant if further information concerning these points is needed.

The Examiner also stated: "Additionally, it should be noted that the below double patenting rejections are based upon known and available co-pending applications and although it is believed that all appropriate rejections have been made, Applicant's help in determining all appropriate double patenting rejections with all of Applicant's applications is requested because of the large number of similar applications." (Office Action, 2.) Applicant is uncertain what help the Examiner is requesting. To the extent the Examiner is asking for identification of applicant's co-pending applications, then, as stated above, applicant has attached to the end of this document a list of its patent applications and its one Taiwanese patent. Additionally, to the extent that applicant is aware of any double patenting issue, applicant will take some action to address or defer the issue, such as by amending or canceling claims, by traversing the rejection, by filing a terminal disclaimer, or by taking some other action. The Examiner is requested to inform applicant if further information concerning this issue is needed.

The Examiner provisionally rejected claims 1, 13 and 15 under the judicially created doctrine of obviousness type double patenting in light of claims 1 and 17 from co-pending Application No. 10/052,705. Applicant understands that these rejections may be withdrawn when they are the only rejections remaining in this application in

order to allow the application to proceed to issuance. MPEP § 804. Additionally, it is possible that the cited claims of the co-pending applications will be amended or cancelled without prejudice, and as a result, the double patenting rejections may become moot. In light of these facts, applicant requests that the discussion of the obviousness-type double patenting rejections be held in abeyance pending resolution of the remaining issues discussed herein. If the remaining issues are resolved, then applicant requests that the double patenting rejections be withdrawn so that the application may proceed to issuance.

**Statement Under 37 CFR 1.78(c)**

The Examiner required applicant under 35 USC §103(c) and 37 CFR 1.78(c) to state whether the inventions claimed in the application cited as the bases for the double patenting rejections were commonly owned at the time the invention claimed in the present application was made. In response, SD3, LLC states that the inventions claimed in the present application and in the co-pending application cited by the Examiner were commonly owned or subject to an obligation of assignment to SD3, LLC at the time the later invention was made. The undersigned is authorized to make this statement on behalf of SD3, LLC. By making this statement applicant does not concede that the cited claims are conflicting claims or that the double patenting rejections are proper.

**Claim Rejections – 35 USC §112**

The Examiner rejected claim 12 under 35 USC §112 as not enabled. Applicant traverses that rejection because the claim was enabled. Nevertheless, applicant has cancelled claim 12 without prejudice in order to simplify the issues and present the application in a more favorable condition for allowance. Applicant reserves the option of pursuing claim 12 or some other similar claim in a divisional, continuation, or other application.

**Claim Rejections – 35 USC §102(f)**

The Examiner rejected claims 1-5 and 8-15 under 35 U.S.C. §102(f) by saying applicant did not invent the claimed subject matter. Specifically, the Examiner said, "It is not clear who actually invented the subject matter of claims 1-5 & 8-15 because each of the above co-pending applications [referring to the co-pending application cited to support the double patenting rejections] have different inventive entities." (Office Action, 6.) This rejection is traversed.

The inventors named in the present application are the inventors of the subject matter claimed in the present application. Multiple individuals are named as inventors because each individual made a contribution to the subject matter of at least one claim of the application, even though each individual may not have made the same type or amount of contribution and even though each individual may not have made a contribution to the subject matter of every claim in the application. A different inventive entity is named in a the co-pending application cited by the Examiner because those named individuals made contributions to the subject matter of at least one claim of the other application. The fact that inventive entities may be different in various applications

does not mean that inventorship is incorrect in the present application. Often applications with overlapping subject matter but with additional disclosures and differing sets of claims have different inventive entities. That is the situation here. The present application and the co-pending application cited by the Examiner have disclosures and claims that differ and that require the naming of different inventive entities. Thus, there is no inconsistency in inventorship. Accordingly, applicant requests the rejection under 35 U.S.C. § 102(f) be withdrawn.

**Claim Rejections – 35 USC §102(b)**

The Examiner rejected claim 29 under 35 USC §102(b) as anticipated by U.S. Patent No. 5,943,932 to Sberveglieri. That rejection is traversed. Nevertheless, applicant has cancelled claim 29 without prejudice in order to simplify the issues and present the application in a more favorable condition for allowance. Applicant reserves the option of pursuing claim 29 or some other similar claim in a divisional, continuation, or other application.

**Claim Rejections – 35 USC §103**

Claims 1-5, 8 and 13-15 were rejected under 35 USC §103 as obvious over U.S. Patent No. 1,811,066 to Tannewitz in view of U.S. Patent No. 3,785,230 to Lokey. This rejection is traversed. (Claim 8 has been cancelled without prejudice, so the rejection of that claim is moot and not discussed below.)

Claims 1-5 describe a table saw having "a detection system configured to detect contact between a person and the blade," and claims 13-15 require similar systems or means. Tannewitz and Lokey, in contrast, do not disclose a system to detect contact between a person and the blade. Tannewitz simply discloses a table saw with a hand-

actuated brake. Lokey discloses a detection system for hand-held circular saws and table saws, but it is a system to detect *proximity* between a person and the blade, not *contact* between a person and the blade. Thus, neither reference explicitly teaches or suggests a contact detection system as required by applicant's claims, and therefore, the references by themselves cannot establish obviousness. MPEP §2143.03 ("To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.")

The Examiner, however, says "only the values of the electrical components of Lokey would need to be altered in order for the sensor to sense contact, and changing those values to detect contact would have been obvious to one skilled in the art at the time of the invention in order to avoid triggering the safety system when the user is close to the blade but not in danger of being cut." (Office Action, 8.) In other words, the Examiner says it would have been obvious to alter Lokey's detection system so that it detects contact instead of proximity. Applicant respectfully disagrees and points out that nothing in Lokey supports the Examiner's conclusion. To the contrary, Lokey teaches away from that conclusion.

First, Lokey teaches proximity detection only. Lokey never says or suggests his system can be used to detect contact between a person and a cutting tool, as shown by the following quote from Lokey:

The threading of the knob 19 should be such that the solenoid 21 will operate just prior to the finger touching the blade 13 so that the cam brake members 24 will be rotated by their shafts 25 when rotated by movement of the armature 29 in the solenoid 21. The movement of the brakes 24 into engagement with the blade 13 is virtually instantaneous and the blade 13 stops prior to even the slightest contact with the body of the user regardless of the speed of movement of the users [sic]

finger toward a contacting position with respect to the blade 13.  
(Column 2, lines 20-31.)

A proximity detection system as disclosed in Lokey is different from a contact detection system as disclosed in applicant's claims because a proximity detection system works to avoid injuries while a contact detection system works to minimize the severity of injuries. Modifying Lokey to detect contact instead of proximity would therefore change the basic principle of operation of Lokey, i.e., to avoid injury, which is impermissible in an obviousness inquiry. MPEP §2143.01.

Second, the proximity detection system in Lokey causes a warning bell to sound and a brake to decelerate the blade when a person moves too close to the blade. Neither the warning bell nor brake disclosed in Lokey would work with a contact detection system. The warning bell signals that a user's hand is too close to the blade. That bell would be of no use in a contact detection system because contact between the blade and user would have already occurred. Additionally, the brake disclosed in Lokey requires a solenoid to push cam brakes or a brake block against the blade. Solenoids, however, typically take 5-15 milliseconds to begin moving an armature, and that reaction time is too slow to use with a contact detection system because the user can receive a serious injury before the solenoid acts. In other words, if Lokey detected contact instead of proximity, Lokey would not prevent serious injuries in part because of the time required for the solenoid to begin moving the brake into contact with the blade. Therefore, Lokey's warning bell and brake system teach away from contact detection, and modifying Lokey to detect contact instead of proximity would render Lokey's brake unsatisfactory for its intended purpose of preventing injuries. These facts support a

conclusion that it would not be obvious to modify Lokey to detect contact. MPEP §2143.01.

Third, there is no teaching in Lokey that the proximity sensor could be modified to detect contact instead of proximity. A circuit used to sense contact would be different than a circuit to detect proximity because proximity sensors look for very small changes in capacitance. Because of that difference, it is unlikely that the system in Lokey could be altered to detect contact; it is more likely that a new and different circuit would be required. In any event, what is certain is that Lokey fails to disclose a circuit that could detect contact, and as a result of that failure, there is no reasonable expectation that Lokey's sensor could be successfully altered to detect contact instead of proximity. MPEP §2143.02.

Finally, the Lokey reference must be viewed without the benefit of impermissible hindsight afforded by applicant's invention. Hodosh v. Block Drug Co., Inc., 786 F.2d 1136 (Fed. Cir. 1986). Even if Lokey could be modified to detect contact, it would still be unobvious to do so unless the prior art suggests the desirability of the modification. In re Mills, 916 F.2d 680 (Fed. Cir. 1990). In the case at hand, there is no suggestion in the prior art to change Lokey's proximity detection system into a contact detection system. How would one make that change? What new or different electrical components would be needed? Additionally, why would one want to make the change? Is not a proximity detection system better than a contact detection system if it works? These questions help show that it would not have been obvious to alter the detection system of Lokey so that it could detect contact instead of proximity.



For all these reasons, the Tannewitz and Lokey references do not teach or suggest all of the limitations of claims 1-5 and 13-15 and therefore the references cannot by themselves support a conclusion of obviousness. MPEP §2143.03. Nevertheless, even if it were obvious to modify Lokey's system so that it could detect contact, applicant's claims still would not be obvious unless there is some teaching, suggestion or motivation in the prior art to combine the altered detection system of Lokey with Tannewitz. The law is clear that in order to establish obviousness, "there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference." MPEP §2142. In the case at hand that means there must be some suggestion or motivation to modify the saw disclosed in Tannewitz to include the altered detection system disclosed in Lokey. However, neither of the cited references includes such a suggestion.

The only reason given by the Examiner to combine Tannewitz and Lokey is the following: "It would have been obvious to one skilled in the art at the time of the invention to use the brake pawl and safety system of Lokey to detect contact of a user and the blade of Tannewitz in order to make the saw of Tannewitz safer." (Office Action, 8-9.) In other words, the Examiner says it would have been obvious to include the brake and safety system of Lokey on the saw of Tannewitz to make the Tannewitz saw safer. But the simple desire to make a saw safer cannot by itself be sufficient motivation to combine the references. If it were, then almost no safety improvement could be patented. Rather, there must be some express or implicit teaching, suggestion or motivation in the prior art to make the specifically claimed combination. Expressed

differently, it is not the desire to make something better but the solution that must be suggested or taught. That means there must be some express or implicit teaching or suggestion in the prior art to modify Tannewitz to include the altered detection system of Lokey. Where in the prior art is there such a suggestion? Applicant asserts that there is no such suggestion.

Nevertheless, even if the prior art suggested modifying Tannewitz to include the altered detection system of Lokey, there would also have to be a reasonable expectation that the resulting combination would be successful in order to support a conclusion of obviousness. In other words, a reasonable expectation of success is required to support an obviousness rejection, and that expectation must be found in the prior art and not based on applicant's disclosure. MPEP §§2143 and 2143.02. Without that reasonable expectation, a conclusion of obviousness is improper.

In the case at hand, there is no reasonable expectation that the brake system of Tannewitz would work in a saw with a contact detection system. The brake system of Tannewitz includes a lever that pushes a brake shoe against the side of the blade. The force required to create enough friction between the brake shoe and the side of the blade to stop the blade quickly enough to avoid a serious injury after contact between a person and the blade has occurred would be significant. What would generate that force and how would it be applied to the brake shoe? In Tannewitz, the braking force is applied by hand. A hand-actuated brake clearly would not be applicable with a contact detection system. In Lokey, the braking force is applied by a solenoid. However, as previously stated, solenoids typically take 5-15 milliseconds to begin moving the armature, and that reaction time is too slow to use with a contact detection system.

Additionally, typical solenoids do not supply enough force to create sufficient friction between the brake shoe and the side of the blade to stop the blade quickly enough to avoid a serious injury after contact has been detected. Thus, there is no reasonable expectation that the brake system shown in Tannewitz could be successfully actuated by solenoids upon detection of contact between a person and the blade.

There is also no reasonable expectation that the brake system of Lokey could be used in the saw disclosed in Tannewitz because Lokey's brake system is fixed – it does not move with the blade. That means the blade in Tannewitz could be in a position where Lokey's brake would be unable to stop the blade when contact was detected, which is clearly unacceptable. The only way to address this issue would be to modify Lokey's brake system, but where is there a teaching of what modifications would be needed? How would the brake be supported? Where would it be mounted? Would it still slide on a support surface as in Lokey? What would cause the brake to change elevation or tilt with the blade? Would a solenoid be mounted for movement with the brake? Is there sufficient space in Tannewitz's saw for such a system? These questions illustrate the difficulty inherent in trying to implement Lokey's brake in Tannewitz's saw.

For all these reasons, claims 1-5 and 13-15 are not obvious in light of Tannewitz and Lokey, and applicant requests that the obviousness rejection of these claims be withdrawn.

The Examiner also rejected claims 9-12 as obvious in light of Tannewitz and Lokey, and those rejections are traversed. Nevertheless, applicant has cancelled those claims without prejudice in order to simplify the issues and to present the application in

a more favorable condition for allowance. Applicant reserves the option of pursuing these claims or other similar claims in a divisional, continuation, or other application.

### **New Claims**

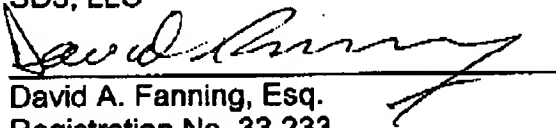
Applicant has added new claims 30-33. These claims depend from claim 1 and distinguish the cited references for the same reasons as claim 1. These claims also include additional limitations that distinguish the cited references.

### **Conclusion**

With the entry of the above amendments, and for the reasons discussed herein, Applicant submits that all of the issues raised in the Office action mailed February 12, 2004 have been addressed and overcome. If there are any remaining issues or if the Examiner has any questions, applicant's undersigned attorney can be reached at the number listed below. Similarly, if the Examiner believes that a telephone interview might be productive in advancing prosecution of the present application, the Examiner is invited to contact applicant's undersigned attorney at the number listed below.

Respectfully submitted,

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**Attachment 1**

<b>Title</b>	<b><u>Serial No./ Publication No.</u></b>	<b><u>Filing Date/ Publication Date</u></b>
Detection System For Power Equipment	09/929,428 2002-0017176-A1	August 13, 2001 February 14, 2002
Contact Detection System For Power Equipment	60/225,200	August 14, 2000
Apparatus And Method For Detecting Dangerous Conditions In Power Equipment	09/929,221 2002-0017336-A1	August 13, 2001 February 14, 2002
Apparatus And Method For Detecting Dangerous Conditions In Power Equipment	60/225,211	August 14, 2000
Firing Subsystem For Use In A Fast-Acting Safety System	09/929,240 2002-0020263-A1	August 13, 2001 February 21, 2002
Firing Subsystem For Use In A Fast-Acting Safety System	60/225,056	August 14, 2000
Spring-Biased Brake Mechanism For Power Equipment	09/929,227 2002-0020271-A1	August 13, 2001 February 21, 2002
Spring-Biased Brake Mechanism For Power Equipment	60/225,170	August 14, 2000
Brake Mechanism For Power Equipment	09/929,241 2002-0017180-A1	August 13, 2001 February 14, 2002
Brake Mechanism For Power Equipment	60/225,169	August 14, 2000
Retraction System For Use In Power Equipment	09/929,242 2002-0017181-A1	August 13, 2001 February 14, 2002
Retraction System For Use In Power Equipment	60/225,089	August 14, 2000
Replaceable Brake Mechanism For Power Equipment	09/929,236 2002-0020261-A1	August 13, 2001 February 21, 2002
Replaceable Brake Mechanism For Power Equipment	60/225,201	August 14, 2000
Brake Positioning System	09/929,244 2002 0017182-A1	August 13, 2001 February 14, 2002
Brake Positioning System	60/225,212	August 14, 2000
Logic Control For Fast-Acting Safety System	09/929,237 2002-0020262-A1	August 13, 2001 February 21, 2002
Logic Control For Fast-Acting Safety System	60/225,059	August 14, 2000

<u>Title</u>	<u>Serial No./ Publication No.</u>	<u>Filing Date/ Publication Date</u>
Motion Detecting System For Use In A Safety System For Power Equipment	09/929,234 2002-0017178-A1	August 13, 2001 February 14, 2002
Motion Detecting System For Use In A Safety System For Power Equipment	60/225,094	August 14, 2000
Translation Stop For Use In Power Equipment	09/929,425 2002-0017175-A1	August 13, 2001 February 14, 2002
Translation Stop For Use In Power Equipment	60/225,210	August 14, 2000
Translation Stop For Use In Power Equipment	60/233,459	September 18, 2000
Cutting Tool Safety System	09/929,226 2002-0017183-A1	August 13, 2001 February 14, 2002
Cutting Tool Safety System	60/225,206	August 14, 2000
Table Saw With Improved Safety System	09/929,235 2002-0017184-A1	August 13, 2001 February 14, 2002
Table Saw With Improved Safety System	60/225,058	August 14, 2000
Miter Saw With Improved Safety System	09/929,238 2002-0017179-A1	August 13, 2001 February 14, 2002
Miter Saw With Improved Safety System	60/225,067	August 14, 2000
Fast Acting Safety Stop	60/157,340	October 1, 1999
Safety Systems For Power Equipment	09/676,190	September 29, 2000
Fast-Acting Safety Stop (Taiwan)	143466	February 25, 2002
Fast-Acting Safety Stop	60/182,866	February 16, 2000
Safety Systems for Power Equipment (PCT)	PCT/US00/26812	September 29, 2000
Miter Saw With Improved Safety System	10/052,806 2002-0059855-A1	January 16, 2002 May 23, 2002
Miter Saw With Improved Safety System	60/270,942	February 22, 2001
Contact Detection System For Power Equipment	10/053,390 2002-0069734-A1	January 16, 2002 June 13, 2002
Contact Detection System For Power Equipment	60/270,011	February 20, 2001

<u>Title</u>	<u>Serial No./ Publication No.</u>	<u>Filing Date/ Publication Date</u>
Power Saw With Improved Safety System	10/052,273 2002-0059853-A1	January 16, 2002 May 23, 2002
Power Saw With Improved Safety System	60/270,941	February 22, 2001
Table Saw With Improved Safety System	10/052,705 2002-0056350-A1	January 16, 2002 May 16, 2002
Table Saw With Improved Safety System	60/273,177	March 2, 2001
Miter Saw With Improved Safety System	10/052,274 2002-0059854-A1	January 16, 2002 May 23, 2002
Miter Saw With Improved Safety System	60/273,178	March 2, 2001
Miter Saw With Improved Safety System	10/050,085 2002-0056349-A1	January 14, 2002 May 16, 2002
Miter Saw With Improved Safety System	60/273,902	March 6, 2001
Miter Saw With Improved Safety System	10/047,066 2002-0056348-A1	January 14, 2002 May 16, 2002
Miter Saw With Improved Safety System	60/275,594	March 13, 2001
Safety Systems For Power Equipment	60/275,595	March 13, 2001
Miter Saw With Improved Safety System	10/051,782 2002-0066346-A1	January 15, 2002 June 6, 2002
Miter Saw With Improved Safety System	60/279,313	March 27, 2001
Safety Systems for Power Equipment	10/100,211 2002-0170399-A1	March 13, 2002 November 21, 2002
Safety Systems For Power Equipment	60/275,583	March 13, 2001
Router With Improved Safety System	10/197,975 2003-0015253-A1	July 18, 2002 January 23, 2003
Router With Improved Safety System	60/306,202	July 18, 2001
Translation Stop For Use In Power Equipment	09/955,418 2002-0020285-A1	September 17, 2001 February 21, 2002
Translation Stop For Use In Power Equipment	60/292,081	May 17, 2001
Band Saw With Improved Safety System	10/146,527 2002-0170400-A1	May 15, 2002 November 21, 2002
Band Saw With Improved Safety System	60/292,100	May 17, 2001

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Serial No. 09/929,235

<u>Title</u>	<u>Serial No./ Publication No.</u>	<u>Filing Date/ Publication Date</u>
Apparatus And Method For Detecting Dangerous Conditions In Power Equipment	10/172,553 2002-0190581-A1	June 13, 2002 December 19, 2002
Apparatus And Method For Detecting Dangerous Conditions In Power Equipment	60/298,207	June 13, 2001
Discrete Proximity Detection System	10/189,031 2003-0002942-A1	July 2, 2002 January 2, 2003
Discrete Proximity Detection System	60/302,937	July 2, 2001
Actuators for Use in Fast-Acting Safety Systems	10/189,027 2003-0005588-A1	July 2, 2002 January 9, 2003
Actuators For Use In Fast-Acting Safety Systems	60/302,916	July 3, 2001
Actuators For Use In Fast-Acting Safety Systems	10/205,164 2003-0020336-A1	July 25, 2002 January 30, 2003
Actuators For Use In Fast-Acting Safety Systems	60/307,756	July 25, 2001
Safety Systems for Power Equipment	10/215,929 2003-0037651	August 9, 2002 February 27, 2003
Safety Systems For Power Equipment	60/312,141	August 13, 2001
Safety Systems For Band Saws	10/202,928 2003-0019341-A1	July 25, 2002 January 30, 2003
Safety Systems For Band Saws	60/308,492	July 27, 2001
Router With Improved Safety System	10/251,576 2003-0058853-A1	September 20, 2002 March 27, 2003
Router With Improved Safety System	60/323,975	September 21, 2001
Logic Control With Test Mode For Fast-Acting Safety System	10/243,042 2003-0058121-A1	September 13, 2002 March 27, 2003
Logic Control With Test Mode For Fast-Acting Safety System	60/324,729	September 24, 2001
Detection System for Power Equipment	10/292,607 2003-0090224-A1	November 12, 2002 May 15, 2003
Detection System For Power Equipment	60/335,970	November 13, 2001



<u>Title</u>	<u>Serial No./ Publication No.</u>	<u>Filing Date/ Publication Date</u>
Apparatus and Method for Detecting Dangerous Conditions in Power Equipment	10/345,630 2003-0131703-A1	January 15, 2003 July 17, 2003
Safety Systems For Power Equipment	60/349,989	January 16, 2002
Brake Pawls for Power Equipment	10/341,260 2003-0140749-A1	January 13, 2003 July 31, 2003
Brake Pawls For Power Equipment	60/351,797	January 25, 2002
Miter Saw With Improved Safety System	10/643,296	August 18, 2003
Miter Saw With Improved Safety System	60/406,138	August 27, 2002
Retraction System And Motor Position For Use With Safety Systems For Power Equipment	60/452,159	March 5, 2003
Table Saws With Safety Systems And Blade Retraction	60/496,550	August 20, 2003
Brake Cartridges For Power Equipment	60/496,674	August 20, 2003
Switch Box For Power Tools With Safety Systems	60/533,598	December 31, 2003
Motion Detection System For Use In A Safety System for Power Equipment	60/496,568	August 20, 2003
Improved Detection Systems For Power Equipment	60/533,791	December 31, 2003
Improved Fence For Table Saws	60/533,852	December 31, 2003
Improved Table Saws With Safety Systems	60/533,811	December 31, 2003
Brake Cartridges And Mounting Systems For Brake Cartridges	60/533,575	December 31, 2003
Improved Table Saws With Safety Systems and Systems to Mount and Index Attachments	60/540,377	January 29, 2004

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office to number (703) 872-9306, attention Examiner Thomas J. Druan, on the date shown below.

Date: May 5, 2004  
David A. Fanning